G. R. S. 58]

Previous references.

1902-03

191 .

(Separate Revn)

Later references.

File No. 2580/02

Serial Nos. 1 to 14

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 14

Part B for January 1904.

SUBJECT.

Title of the administrator General of Madras to deal with the estates of deceased British Subjects in Mysore.

---

1. From The Comptroller, Mysore Government — 18.10.02
~~D. No.~~ No. 7988 / mis 1247 — Forwards ~~for orders~~ of Govt. correspondence relative to the estates of the late Lofanadha Rao & Miss Patton

2. To — " — — 7.11.02
D. C. — Suggests that the Treasury officer concerned may be instructed to inform the Admr. Genl. that payment of the amounts in question

Countersigned

GPB—3,500—21-7-14

the Succession Certificate Regulation VII of 1901 is obtained.

3. From the Comptroller 7.2.03.
Mysore Government,
No: 4242. Forwards copy of correspondence regarding the estates of the late Lajanatha Rao. Devan Bahadur, and requests that early orders may be passed on the subject.

4. From the First Asst. 5.5.03.
to the Resident.
No: J/1798 States that for certain reasons the claim of the Administrator General appears to be inadmissible.

5. From the Adm. Genl. 5.5.03.
Madras. No: P 729.
Solicits early orders may be passed re. the recovery of the sum of Rs 6450/- standing in the name of the deceased V. Lajanatha Rao.

6. From — to —. 20.5.03.
No: 1861
J.F. 94 of 02-3
States that the matter has raised an important question which has not yet been decided & which is under correspondence.

7. From the First Asst. 12.6.03.
to the Resident.
No: 2607 States that in the Hon'ble the Resident's opinion the Adm. Genl. is entitled to recover any property which may belong to

to the late Lt Anantha Murs. & Miss Patton in Mysore without any further authorization by the State authorities

8. To The First Asst to the Resident — 14.8.03
No. 391.
Jf. 946 of 02-3

States that the position taken up by the Darbar has not been correctly understood, explains the matter more fully

9. To The Advr Genl Madras — 3.9.03
No. 559
Jf. 946-03

States that the matter is still under correspondence between the Darbar & the Resident in Mysore

10. From The First Asst to the Resident — 27.10.03.
No. 5204.

Regrets that under some circumstances, he can not see his way to make any representations on the subject to the Advr Genl & informs that if the Darbar still considers there to be any doubt on the subject he is prepared to submit the question for the orders of the Government of India.

11. To The First Resident. 23.12.03.

No: 1306

J96 of 02-3

States that the question re the title of the Adm'n Genl's of Madras to deal directly with the estates of deceased British subjects in Mysore requires further investigation on very good grounds.

12. To The Comptroller 7.1.04
Mysore Government.
No: 1377

J 96 of 02-3

States that the question is still under correspondence between the Darbar & the Resident & directs that the amount under adverteence may be paid to the claimant, subject to some conditions.

13. To The Adm'n Genl's 7.1.04.
Madras. No's 1378 Secl.

J

Forwards copy of the above for information.

14. From —"— 12.1.04.

No:

Acknowledges the above and accepts to conditions prescribed in No: 1377 d/7.1.04.

Indexed - Blenwas a Reg.

417

OFFICE OF THE DEWAN OF MYSORE
(REVENUE AND GENERAL DEPARTMENTS).

(Full Office Note.)

V

1. No. and date of latest letter or paper.
2. Catch words to s f subject.
3. Subject to be in red and body of note in black ink.

Subject.

A question of Stamp Revenue.
(Comptroller's letter no: 1988 of 21.10.02)

Note.

The correspondence forming the enclosure to the letter under reference relates to:-

(1) the payment to the Administrator Genl of Madras of Rs 614500 at the credit of the late Lokanathaun moodr. in deposit in the Govt. Savings Bank at Bangalore;

(2) the payment to the same per Sonage of Rs 1963-15-1 at the credit of the late Miss Sarah Patton in deposit in the Govt Savings Bank at Chitaldroog.

2. With regard to point no(1) the Administrator Genl addressed the Treasury Officer, Bangalore District forwarding letters of administratio

4. Serial numbers in ne, &c., to be always stated.
5. Dates of important documents referred should be given.
6. Write on both sides, leaving the same side as margin.

gd by precedents, or general rul

2.

and Savings Bank pass book in proof of his claim and requesting him to pay the amount at the credit of the depositor, the late Locanathan mudr.

3. The Treasury Officer replied that the Schedule of the assets mentioned in the copy of the will does not bear a word relating to the amount in the Imperial Govt Savings Bank and so he had no right to pay the amount under cl 8 of the Savings Bank Act V of 1873 and Comptroller's cir: no. S. A 3938/28.10.04. H Clark.

4. The Administrator Genl of Madras drawing the attention of the Treasury Officer, Bangalore Dist, to Sec. 23.a. of Act II of 1874 (Administrator Genl Act) stated that the letters of administration granted to him by the High Court of Madras had effect over all the property and estate moveable or immovable of the deceased throughout such Presidency and added that his power to demand payment of a Rs. due to the

Cdg first wkn.

deceased and delivery of any property belonging to him was not limited to the debts or property enumerated in the will or in the letters of administration, but extends to all debts and property belonging to the deceased. He further stated that the authorities sent by the Treasury officer in support of nonpayment had no reference to wills nor did they lay down that only such assets as were mentioned in the will should be payable. Besides cl 8 of the Savings Bank Act referred to applies to deposits not exceeding Rs 1000/; and the circular of the Comptroller has reference only to certificates granted by the Civil Courts wherein the Amount in deposit will be inserted and the Treasury Officer is required to pay such amounts and no more. Should there be a balance a fresh certificate will have to be obtain

5. The circular cannot apply to this case where letters of Administration are issued in which particulars of amounts due are not mentioned at all. By Sec^{n} 16 of the Administrator Gen^{l}'s Act the Administrator Gen^{l} is not required to state the particulars of assets nor does the Court insert them in the letters of Administration.

6. The correspondence was then submitted to the Comptroller, Mysore Gov^{t} who asked the opinion of the Gov^{t} Advocate whether the power vested in the Administrator Gen^{l} of Madras can take effect in Mysore.

7. The Gov^{t} Advocate replied that, if the late Devanathan Mood^{r} were not a natural born subject of His Majesty, ie, if he had not been born within the said Territories and if he had not obtained a certificate of naturalization under Act 13 of 1852

he can not be considered as a Bri-
tish Subject. If he had been born
within Mysore and if he had not
obtained a certificate of naturaliza-
tion under the said Act, he should
be considered a Mysore subject and the
Administrator Genl's Act will not
apply

8. The Administrator General of Madras
was then asked to produce proofs
that the late Locanathan Moodeliar was
not a Mysore subject but a British
Subject

9. Forwarding a copy of an
affidavit sworn to by the late Mr.
Biligere Iyengar, Attorney-at-law,
High Court, Madras, as a proof that
the deceased is a British born
Subject, the administrator Genl. stated
that the original affidavit was
on the file of the Madras High Court
and, if necessary, an authorised copy

will be sent.

10. With regard to point no(2) the Administrator Genl. of Madras having applied to the Treasury Officer, Chittaldrug, for payment of the money at the credit of the late Miss Sarah Patton in the Govt. Savings Bank at Chittaldrug and having also forwarded letters of administration granted to him by the Madras High Court and Savings Bank Pass book in proof of his claim to the Amount in question, the correspondence was forwarded to the Comptroller, Mysore Govt, with the Chittaldrug Dy Comrs's no: 147 & 17-10-02, for orders.

11. The Comptroller solicits the orders of Govt in the two cases bringing to notice at the same time that there would be a considerable loss of Stamp Rev: to the Mysore State in the former case, if the contention of the Administrator

Genl, that he has jurisdiction over Mysore and that no separate letters of Administration need be obtained from the Civil Courts in Mysore, can be admitted.

The Secretary
Submitted for orders.

H.V.
29/10/02

H
31/10/02

12. The ~~Sr~~ Asst Secy (Jud.) will please note his opinion with authorities.

Does the Admr-Genl Act apply to British (European) subjects only or to all British subjects? With reference to admr of movable, as well as immovable property, is not the Govt vested in the Courts within whose jurisdn the property is situated?

Early

H
1/11/1902

H
3/11/02

13. The Administrator General's Bel-, II of 1874 extends, "so far as regards British subjects [i.e. all British subjects, whether native or European] of Her Majesty," "& the dominions of Princes and States in alliance with Her Majesty. (Sec. 1)

* Copy of Act & Rules to be sent to Govt

14. Under sections 17 & 20, whenever any person, whether a Hindu (etc.) or not, shall have died leaving assets within the local limits of the ordinary civil admr of the High Court of Madras, the "High Court" can, under the circumstances laid down therein, grant letters of administration of the effects of the deceased, to the Administrator General of Madras. Under s. 23A, such a letter of admr will have effect over all the property and estate, moveable & immoveable, of the deceased throughout the Madras Presidency, which expression includes Moore also (s. 3).

15. But the question arises whether persons other than British subjects are bound by a letter of admr granted as above. The effect, s. 1 is not, and cannot be, to introduce the Admr General's Act as a part of the legislative law of Moore: but simply to make it a part of the personal law of British subjects: when they reside within the dominions of Native Princes. Any other interpretation will be liable to the first objection that no one can make a law for a country except the person in whom the power to legislate for that country is vested.

There is nothing bearing on the present question in the Indian

of Transfer.]

16. The position stands thus:- As against a British subject, the letter of admr granted by the Admr General is of full force and effect; but it is not so (as far as I can judge) as against any other person say, the Treasury Officer of Bangalore.

17. The point is not free from doubt, and I would suggest that the Admr General be himself called upon to state fully his reasons for holding that a Dpty Treasury Officer is bound by a letter of admr granted under a law which is not in force in the State of Mysore; also, to quote previous instances, if any, in which such a claim has been recognized.

18. In the absence of any such reasons I think the money in the Savings Bank should not be given up except on production of a certificate granted by a Mysore Court under the Succession Certificate Regulation, VII of 1901

19. Instead of accepting the Admr General's statement as to Ld Ranadale having been a British subject, I would ask the Dpty Comr of Bangalore to make specific enquiries on the point, and report whether the deceased had acquired a permanent domicile in the Mysore State

20. As regards the case of Miss Sarah Patten, the papers do not show to what inhabitants

to
the belonged. If the was a European, ⊗ (See Sec. 17 of Act VIII of 1874 for provision that will apply; but in other respects, the position would appear to be the same. But please see, however, the Residency letter printed with G.O. No. 795-3-61 — J. 918 dy the 14th Jan. 1897, which seems to imply that the Govt. General, Madras, can interfere where a person not being a Hindu, dies leaving assets in a Native State.

(See Sec. 17 of Act VIII of 1874 for provision that will apply)

Ch. Chandrasekhara Aiyar
4 Nov. 1902

Ref. to Rev. Dept. to be asked to see

21, Please refer to some book on Private International Law about the applicability of the law of the forum within whose jurisdiction the goods are found — for their admn. If you have no books in the library, I shall find out if I have any. Kindly draft a letter to the Advocate-General.

Please see Dicey's Conflict of Laws Ch IX, also p. 456 (Rule 117) and elsewhere as noted in Index under Will & you'll find little in the other treatises available

A draft letter to the Advocate-General may be issued but as direct correspondence with the Govt. General may be opened to. Also draft enquiries re Cases of Bungalow & Chitalroog.

4/11/02

22. In addition to the ~~book~~ authority above quoted reference may be made to Wharton's Conflict of Laws — articles 604 &c. P. 582. There is not the slightest doubt concerning the soundness of the position that the Administrator General

of Madras ~~Chance~~ no. power to demand payment of the money without obtaining a certificate from the local Courts.

23 Instead of our making a reference, I think the Comptroller may instruct the Treasury Officers concerned to reply to the Administrator General who applied for payment that the payment cannot be made unless a certificate is obtained from a Court having local jurisdiction and produced as the authority. If that Office has authority to receive the money, we are sure to hear of it in due course.

24 Submitted to the Dewan with a draft reply to the Comptroller

6/11/1902

Wellesley. Ch.S. 7/6/1

7056
2286-11-02 Kindly draft a reply & send the file to the Rev Deptt

Draft prepared & sent to Rev Deptt
6.11.02. (Rev Deptt).

Received & copy to the 7th Artillery for info
Davenport, Iowa and orders on 14th inst.
15-11-12

Confidential Early

N. con

25. To Lord Londonderry

Please see the
Succession Certificate
* Regulation VII of 1901
wherein the certificate
granted under Sn 36
or 37 of the Admr Genl's
* Act 1874 is recognised.
In other words the pro-
duction of a certificate
under that Act is exempted
Where a certificate under
the other Act is produced
x This appears to me to be
a clear case of oversight
Nevertheless it supports
an argument that by
this we have recognised
the Madras Act of 1874.
and the Admr Genl of Madras.
How can we now, with
reference to the claim
of the Advocate General to withdraw
the deposit of Kolkata
Madras, contend that
we shall not be bound
by this Act Admr Genl's Act we are not
perhaps established but
the position has become
somewhat awkward
This requires careful

* Copies put up

x I see this was accepted on a suggestion from the Secretary

9.III.03

Consideration - Please find out how the provision referred to above was introduced It was I suppose copied from the U.S. Patent act. Let me have your note and move Mr Chandra Sekhara Iyer - with the file re the Succession Certificate Regulation

22.II.03

26. I have appended my opinion in a typed note. The Asstt Secretary will please add this to the Dossier.

3/3/1903

27. The insertion, in section 4 of the Succession Certificate Regulation, of a reference to certain provisions of the Administrator General's Act was not due by any means to oversight, but was a deliberate addition made on the advice of the British Resident and of the Chief Court. (Vide N nos 9, 10 & 11 of the Leg. Dept File).

28. The clause in question

is intended to have a summ
limited operation, that is to
say, in cases where (among
other conditions) ——

1) the assets of the deceased
do not exceed Rs 1000,
2) the assets do not comprise
deposits in a Government
Savings Bank, and
3) the party who has obtain
a certificate from the Adm.
General seeks to obtain a
decree or the execution there
from and by the intervention
of a Civil Court in the
Mysore State (there pay
the proper institution & other
fees to the Mysore Govt.) —

29. The case now before us
is entirely different :—

1) the assets exceed Rs 1000
in the case of each deceased,
2) the assets consist wholly
of Savings Bank deposits,
3) it is the Adm. General
who seeks to recover the
same, and this by evading
the intervention of the Mysore
Courts, on the mere
strength of a certificate
from the Madras High Court
which I have shown (in my
former note & typed draft) to be
inoperative against other

than British subjects.

30. There is thus much analogy between the two sets of circumstances and, ~~otherwise~~, from a strictly legal point of view, the one cannot be stretched so as to form an authority or precedent for the other.

M. L. Chandrachudh
4-3-03

Subd & Dlwan

R
3.03
8832

31. Subject:- The status ofthe Administrator-General of Madras in Mysore.

Section 4 of the Succession Certificate Regulation does recognise a certificate granted by the Administrator-General under ss. 36 and 37 of the AdministratorGeneral's Act of 1874. This passage did not find a place in the original draft. In a letter from the Residency, (20 Nov. 1900) it was pointed out that the omission would render such certificates inoperative in respect of the assets of British Subjects, in whose -- case the Act had force in Mysore. The question how far this operation extended was not raised or considered, and after consulting the Chief Court, Government adopted the suggestion, and inserted the clause referred to. These certificates refer to property which is below a thousand rupees in value, and deposits in Government Savings Banks are expressly taken out of their operation.

Sl. no 8 of linked file II Flag C

32. Whatever may be said of the correctness of the principle of making this provision in our Regulation, there is not the -- slightest reason to extend its operation to cases not covered by it. There may be some plausibility in asking our Courts to recognise the representative character of the Administrator General on the strength of a British certificate; but there can be none in asking us to accept that certificate itself as sufficient . One more reason why

we should insist on the production of a certificate granted by our own Court is that, as suggested by the Dewan, revenue due to the State would otherwise be lost.

33. A foreign grant of administration has no effect here. (Dicey's Conflict p. 456.)The reason for a provision like that in s. 23a of the Administrator General's Act which purports to give it an extra-territorial operation is, that otherwise, the A.G. Administrator General who is a legal person, the creature of British law, would have no authority whatever to interfere with such property, whether with or without the authority of the foreign State. Following apparently the rule of English law (Dicey p.345) the Act gives the Administrator authority to administer property even in Mysore; "but it of course depends on the law, not of England, but of the foreign country, whether he has there, in accordance with its law, the right to receive ~~to receive~~ such moveables." (Dicey p.346.)

H. Manjunadayya

3 March 1903.

Secretary.

sits in each of the two cases under advertance, a certificate under the Succession Certificate Regulation granted by a Court having local jurisdiction.

4. I am to observe, in passing, that, as the amount of the estate of Lokanatha Mudaliar is comparatively very large, the loss of stamp revenue to the Darbar would be considerable if the Administrator-General were permitted to recover the same on the strength merely of a letter of administration issued by the Madras High Court.

Despatch to His Highness

5. Copies of correspondence between the Administrator-General and the Account Officers of the Mysore Government are enclosed for reference if necessary.

I have etc.

15.11.02

5/5/3
Secretary.

Typed. 7.6.03

341 Submitted to His Highness the Maharaja for approval.

The question is not without complication but a right of the State is involved.

There are two deposits left by two deceased persons in the Savings Banks of the State as specified in the margin -

1. V. Lokanatha Mudaliar - Rs. 64,500.
2. Miss S. Patton 1793.1.8.

The rule with regard to repayment is contained in Sec 4 of the Savings Bank Act V of 1873. This section while very properly exempting the balances under $ a sum of one - thousand Rupees from being brought under the terms necessity of the Succession Certificate Act or Letters of Administration under the provisions of the law applicable thereto (Indian Succession Act) impliedly makes the production of a certificate under the former or Letters of Administration under the latter

necessary for the withdrawing
of the deposits.

Assuming that both
the depositors are British subjects
- I believe they are - the
Administrator General of Madras
who has been granted letters of
administration by the High
Court of that Presidency under
the act of 1874 has applied to
the Magistrate for the return
of the deposits and the latter
has submitted the case for the
orders of Government.

The Administrator General's
act referred to above was passed
by the Indian Legislature in 1874
and "extends so far as regards
British Subjects of Her Majesty
in the dominions of Princes &
States in India in alliance
with Her Majesty". A certain
difference of treatment is ob-
servable between myself and

other Native States as by S. 3
Presidency of Madras is defined
to include (b) such of the dis-
-tricts aforesaid as the Governor
-General in Council may by noti-
-fication in the Gazette of India
from time to time decide" and
(d) Mysore by the operation of
this Reg is taken away - The exact
reasons for this difference is not
apparent except that this act
was passed long before the Rendition
but that circumstance does not
adequately explain it - The
Administrator General contends
that the act applies to the States
of the defendants mentioned above
in Mysore. It is not however
very clear how a British Indian
act can bind this State which
has a legislature of its own, and
according to the laws of which the
production of a certificate of Suc-
-cession or a letter of Administration
granted by local Courts having

jurisdiction in the matter is a condition precedent to the withdrawal of such deposits. See Section 4 of act V of 1873.

Under all the circumstances of the case it is one in which a reference to the Hon'ble the Puisne Bench is desirable - The enclosed draft may be passed, or if His Highness so directs the question may be placed before the Council and the opinion arrived thereat ordered to be submitted

21. II. 83.

8. III. 83

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

394

Claim of the Administrator General of Madras, to certain sums deposited in the Mysore Government Savings' Banks, by the late V. Loganatha Modliar and Miss Patton —

Order.

35. This is an important Case & should go to Council.

I presume that a Succession Certificate granted under the Mysore act would be recognised in Madras & it is not obvious why the administrator General should be able to deal with property in Mysore without the intervention of our Courts. The wording of the last portion of para 2 of the draft seems to require a slight amendment. As it runs our argument is put forward in spite of the omission of reference to Sums above Rs 1000; whereas the omission is the basis of the argument.

K.R.M.V.

10/3/03

Circulate to Councillors & note Secy's remarks about the draft

11.III.03

12/3

Draft for wid? 12.3.03

4/4 7.03

Matter for disposal by Circulation.

Subject.

Whether the Administrator Govt of Madras is, by letters of Administration granted to him by the Madras High Court, empowered to receive the amounts deposited by certain persons in the Mysore Govt. Savings Banks without obtaining ~~Succession letters~~ a Succession certificate from the Mysore Courts under the Acts and Regulations in force in Mysore.

Circulated to Councillors.

By Order,
H. Maniundayya
Secretary.

14 - 3 - 1903

Name.	Remarks by the Councillor.
V. P. Madhava Rao, Esq., C.I.E., First Councillor. Sent on 14-3-1903 Received on 26.3.03 1903	See Typed Memo 10/4/1903
C. Sreenivasiengar, Esq., Second Councillor. Sent on 13/4/3 Received on 13-4-1903 .45	For my opinion, please see typed memo attached C Sreenivasiengar 19/4/03

To the Dewan.

9839/20.4.03 20/4/3

MGCPB—100—28-11-02.

36. Section 4 of Act V of 1873 (The Government Savings Banks Act) provides in terms for the payment by the Secretary of a Savings Bank to any person entitled thereto without pro-duction of Probate or Letters of Administration or Certficate of heirship only in the case of small deposits not exceeding Rs. 1,000/- in amount and ~~upon this~~ after a lapse of three months from the death of the depositor. The Act itself is silent as regards the larger deposits but it is inferable from the omission of such cases in Section 4, that the Secretary of a Sa-vings Bank is not authorized to pay the deposits exceeding Rs. 1,000/- in value without the pro-duction of a certificate or other authority enu-merated in the Section, ~~and recognised by the Mysore Courts~~.

37. 2. The extent of the operation in Mysore of the Administrator-General's Act(Act II of 1874) and the effect as against the Mysore Subjects of Letters of Administration granted by a British Indian Court under the Act have been discussed at length by the Secretariat and I am in agreement with the main conclusions arrived at

38. 3. It appears to me that the Adminis-trator-General cannot rightly claim in the pre-sent cases, the payment of deposits without ob-taining a Succession Certificate through the Mysore Courts which would, of course, involve the payment of the Stamp dues to Government on the value of the deposits.

39 4. The draft letter to the Residency with the slight alteration ordered by His High-ness in para 2 may therefore issue.

10/4/1902 P. Madhava Rao

Note.

40, It cannot be denied that the Administrator General's Act extends to Mysore. The British subject referred to in Section I of the Act is the deceased person whose assets are to be administered and not the person in whose possession those assets are. In a matter of this kind, there could, I submit, be no reciprocity. There will no doubt be a loss of stamp revenue to the Mysore Government but this cannot be helped. A Succession Cirtificate under the Mysore Law cannot, I think, be insisted upon in such cases. At any rate we ought not to do so where our own officers are the custodians of the money concerned. Whether as against other persons in Mysore, the authority relied upon would operate, is a matter which may be left for Judicial adjudication. There is, of course, no apprehension on the ground of the inadequacy of securit If Loganatha Mudaliar and Miss Patton were British subjects, the Administrator General's request is legitimate and should be complied with. This is my humble opinion but, since a doubt is entertained, ~~ther~~ the reference proposed may be made and a reply awaite before final orders are passed.

20/4/03

41. Submitted to His Majesty -

Both the Commissions are agreeable to the issue of the letter to the Residency and permission is solicited todo so.

24.IV.53

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

5·23

42. Resubmitting the draft of a proposed reply to the Residency about the claim of the Administrator General of Madras to certain sums deposited in the Mysore Government Savings' Banks by the late V. Loganatha Mudaliar and Miss Patton —

Order.

Issue

29/4/03

1·5·03
610

Issue accordingly
1.V.03

5/5/3

Recd 6-5-03.
Let me see fair copy (& enclos.) today
6.5.03

Note in contra

43. The draft letter to the Resident was accordingly signed on the 8th May 1903. Resident has now sent reply which shows that the Sultan's contention has not been correctly apprehended by him. He believes "that the Sultan are prepared to admit that the Adm.: General can make such claims on behalf of British subjects residing in Fez and are only arguing that the case is different in respect of persons who are not British subjects," and that "the only question seems to be whether Logan and Mrs Dalton were British subjects or Europeans." On these assumptions the Resident thinks that the Adm.: Gen.: is entitled to recover the money in question without further authorization by the State authorities.

44. The Sultan's arguments are, however, set forth and I put up herewith a draft of a reply, which explains them more fully than our first letter.

13.6.03

45. I have put up an alternative draft of a reply

The only defect in our side is that the question was not raised long ago: but I think it would be better not to anticipate that objection.

46 I am also doubtful whether we should not refrain from making any reference to testing the matter by a Suit at law. ~~It is not quite certain~~ I do not see any provn in the Savings' Bank Act about Suits for recovery of the deposit. Anyhow I think the Paragraph about this may be omitted.

H.M.
19/6/03

The Dewan
through the 2nd
Councillor

J 28/6
19-6-03

47. I shall be glad to discuss with you and Mr Chandrasekhara Iyer this important Question before recording my opinion. I shall be at your disposal at the Public Office on ~~Wednesday~~ Thursday &c.

H.M.
22/6

22/6/03

Wednesday the 24th ~~instant~~ at 8 am I understand that that is the morning ~~Monday~~ & that the Office will be closed in the morning.

I agree that the Durbar's contention has not been properly understood. The Durbar draws a distinction between a British Subject in possession of a deceased person's property and a Non-British Subject thus in possession. In the case of the former, the Administrator General's powers are not questioned. But in that of the latter, the Durbar consider that the Administrator General can have no locus standi otherwise than under a certificate obtained under the Mysore Law. The question on which the Administrator General has to be addressed is what the law is under which he claims payment from a non-British Subject in Mysore (Secretary, Savings Bank) of money which though forming part of the effects of certain deceased persons, presumably British Subjects, cannot be regarded as coming within the scope of the authority under which he is acting.

49. A short reply is all that seems required. The question has been fully gone into in our letter of the 8th. Instant. There is a misconception and we need not do anything more than attempt to remove it. I do not think it is necessary at this stage of the correspondence either to add to our arguments or to suggest a resort by the Administrator General to a Court of Law. Neither the Resident nor the Administrator General has as yet told us that the position we have taken up is untenable. Where then is the need for an elaborate discussion ? The Secretariat may settle the draft.

11148
29.6.03

27/6/03

33

Submitted to the Senate

Dec 29, 1903

2/16/13

The following letter was sent to the Residency:-

Letter No 391 dated
9.7.94-0203
the 14th August 1903, explaining the position taken by the Durbar in connection with the claim put forward by the Administrator Genl of Madras the Savings Bank deposits referred to

57. The following reply was received from the F.A. Res

Letter No 5204 dated
27th October 1903, State the Administrator Genl has power without further from the Mysore Courts to with the property of British in Mysore, & that if the A still considers there is doubt, the question will be mitted to the orders of the G of India.

Administrator Jail's Powers Case
Residency Letter
No. 5204 d. 27.10.3.

5th A draft reply to the above (which states that the Adv Genl has Power without further authority from our Courts to deal with property of Br. Subjects, is submitted for approval.

53 The more I study the subject, the more I feel convinced of the soundness of our contention; and I think this is a question which should be submitted to the Govt of India, if the Resident does not accept our contention.

54 I must also be excused for stating that the acceptance of the suggestion from the Residency for recognising the validity of

the Administrator General's certificates was a serious mistake. It has given a Power to the Officer of another Port, which no one of our own Officers is entrusted with; and if it should be largely exercised (as fortunately it is unlikely to be) it will give rise to many practical difficulties.

10/11/3

13982/10.11.03

The Dewan.

Submitted to His Highness.

55. This is a draft reply to the Hon'ble the Resident explaining the position which the Durbar considers is due to the Administrator General under the Baroda Succession act of 1874. The Resident has argued this point of the case in his letter No 5204 of 27. 10. 1903 to which this is the proper reply - If approved I mean to discuss the matter with Mr Donaldson after the reply is sent

11. XII. 03

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

Proposed draft of a reply to the Residency regarding the title of the Administrator General of Madras to deal with the estates of deceased British Subjects in Mysore.

1399

Order.

7. Approved

KRAW

18/12/03

58. Please draft an order about Para 5.

57. Yes

19.XII.03

21/12/3

39

52. A reply was thereupon sent to the Residency: ~~as follows:-~~

Letter No 1306 dated the 94-02-03

2 3rd December 1903, explaining ~~stating~~ the position which the Darbar Consider is due to the Administrator-general under the British Indian Act of 1874, & stating that if the reasons given fail to convince the Honble the Resident that the Contract

40

of the Darbar is right, the matter 35
may be referred to the Govt of India
and that the amounts claimed by
the Administrator General will
be paid to him on the condition
that if the Govt of India accept
the view of the Darbar, the Stamp
duty due to the State shd be paid
by the Administrator General.

53. The Comptroller, Mysore Govt
was addressed with regard to
the question of payment of the
money claimed by the Admin
General —

Letter No 1377 / 9.94-02-03 dated the
7th January 1904, requesting the
Comptroller to place himself
in communication with the
Administrator General of Madras
and to disburse the Savings Bank
deposits claimed by him on the
conditions already referred to above

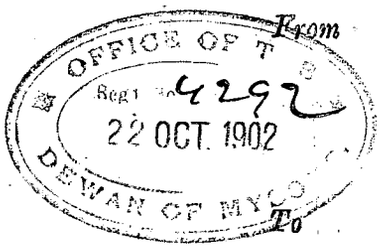
GPB—55,000—27-4-09

mis - 1247

No. 1988 Eg

OFFICE OF THE COMPTROLLER OF MYSORE.

Bangalore, 18th October 1902. 189



From

E. R. SUBRAYER, Esq., B.A.B.C.E.

Comptroller, Mysore Government.

To

H.V.Hanjundayya, Esq., M.A.M.L.

The Secretary to the Govt. of Mysore,

General and Revenue Depts
SECTION S.R.
FILE No. 258 of 02-03
SERIAL No. 1.

SIR,

I have the honor to forward herewith for orders of Government, copies of the marginally noted correspondence relating to the estates of the late Vellore Loganatha Moodr: & Miss Sarah Patton. I beg to point out that as the amount of the estate of the former is very large the loss of stamp revenue to the Mysore State will be considerable if the Administrator General's contention that he has jurisdiction over Mysore and that no separate letters of Administration need be obtained from the Civil Courts in Mysore. can be admitted.

I. Loganatha Moodliar's Estate:-

(1) No.P.1567 of 29th August 1902 from the Administrator General, Madras to Treasury Officer, Bangalore.
(2) No.1619 of 24th September 1902 from Comptroller to Government Advocate, Mysore.
(3) No.58 --------do---------- Government Advocate to Comptroller.
No.1729 of 27th September 1902 with its enclosure from the Comptroller to Administrator General, Madras.
No.P.1872 of 3rd October 1902 from the Administrator General Madras to Comptroller.
(5) do 180 dated 2.9.02 from T.C. Bangalore to A-General Madras.
(4) do P.1679 dated 11.9.02 from Administrator General to T.C. Bangalore.

II. Miss Sarah Patton

(1) No.147 of 17th October 1902 from the Deputy Commissioner, Treasury Department, Chitaldrug with enclosure to Comptroller.

I have the honor to be,

Sir,

Your most obedient servant,

Comptroller.

Transferred to the Rev Branch as this is a question of Stamp revenue. The General Branch simply deals with the question of Stamp manufacture
Ll 28/10/02

Gen. 30]

REVENUE DEPT. Gl. No. 1988 Cl. 28 1402 Bdl. 89 87/6

From

E. R. SUBRAYER, Esq.,
Comptroller, Mysore Govt.

To

The Secretary to the Govt. of Mysore,
General & Revenue Dept.

Dated
Despatched 4-10-02
Received
General No. 1988
No.
Enclosure No. 9

In reply to

SUBJECT.

Forwards for orders of Govern
ment correspondence rela
to the estates of the late Vell
Loganatha Moodliar and
Miss Sarah Patten

References (to be entered only in Dewan's Office).
10/02
Submitted with appn
29

(1)

Letter No.1247/1988 dated 18th October 1902 from E.R. Subrayer, Esquire, B.A. B.C.E. Comptroller to Mysore Government to H.V. Nanjundayya Esquire, M.A. M.L. Secretary to the Government of Mysore General and Revenue Departments.

I have the honour to forward herewith for orders of Government copies of the marginally noted correspondence relating to the estates of the late Vellore Loka-natha Moodr and Miss Sarah Patton

Lokanatha Mudaliar's Estate:-

(1) No.P.1567 of 29th August 1902 from the Administrator General Madras to Treasury Officer, Bangalore.
4 (2) No.1619 of 24th September 1902 from Comptroller to Government Advocate, Mysore.
5 (3) No.58 ----------do----------Government Advocate to Comptroller.
6 (4) No.1729 of 27th September 1902 with its enclosure from the Comptroller to Administrator General Madras.
(5) No.P.1872 of 3rd October 1902 from the Administrator General Madras to Comptroller.
2 (6) No.180 dated 2nd September 1902 from Tresury Officer Bangalore to Administrator General Madras.
3 (7) No.P.1679 dated 11th September 1902 from Administrator General to Treasury Officer Bangalore.

Miss Sarah Patton:-

) No.147 of 17th October 1902 from the Deputy Commissioner Treasury Department Chitaldrug with enclosure to Comptroller.

I beg to point out that as the amount of the estate of the former is very large the loss of stamp revenue to the Mysore State will be considerable if the Administrator General's contention that he has jurisdiction over Mysore and that on separate letters of Administration need be obtained from the Civil and Courts in Mysore can be admitted.

~~Copy~~ "

(Clean Copy)

~~Secretary~~

5 (69

Enclosure to No 182.

Serial 1.

To

N. Subramanyam

Administrator General

of Madras.

Dated 2-9-02.

Sir,

In acknowledging receipt of your letter no: P. 1567 of 29-8-02. and Letters of administration with pass book no: 3.8.06. I have the honor to state that the schedule of the assets mentioned in the copy of the will does not bear a word relating to the amount in the Mysore Government Savings Bank, and so the Treasury has no right to pay the amount as prescribed in clause 8 of the Savings Bank act No I of 1873 and Comptroller's circular no: S. A. 393 of 28 October 1901 — copies herewith sent.

(Sgd) Ahmed Ali

Treasury officer

True Copy'

Elizabeth Smith Hudson

Assistant Secretary

Enclosure to Serial 1

FINANCIAL DEPARTMENT.

Circular No.S.A. 393 of 28th October 1901.

-0000000000000000-

Instances having been brought to the notice of the undersigned of heirs of the deceased Savings Bank Depositors applying to Civil Courts for certificates before obtaining certificates of correct balances from the Treasuries, wherein the deposits have been made, it is hereby published for the information of all concerned that they should in future obtain the certificates of balances prescribed under clause 8 of the Savings Bank Act (No. V. of 1873) and produce them before the Courts with their applications. If they fail to do so, only the amount specified in the Court certificates will be paid to them and for any balances of deposit that may remain, they will be called upon to produce fresh certificates.

Sd/- E.R. Subroyer,
Comptroller.

№ P-1679. 7 (79

Administrator General's Office,

Madras, 11th September 1902.

Estate of Vellore Loganatha Mudelliar.

Enclosure to Serial

From

N. Subrahmanyam,

Administrator General of Madras.

To

Ahmed Ali Esquire,

Treasury Officer,

Bangalore District.

Sir,

I have the honor to acknowledge receipt of your letter No. 180/M. dated 2nd Instant with two enclosures.

In reply to the first part of your letter, nemely that the schedule of the assets mentioned in the copy of the will does not bear a word relating to the amount in the Mysore Government Savings Bank, I wish to draw your attention to Section 23 A of Act II of 1874 (Administrator General's Act) under which letters of Administration granted to the Administrator General by the High Court of Madras shall have effect over all the property and estate moveable and immovable of the deceased throughout such Presidency and shall be conclusive as to his representative title against all debtors of the deceased and all persons holding properly which belongs to him and shall afford full indemnity to all debtors paying their debts and all persons delivering up such property to such Administrator General. It will be noticed that my power to demand payment of any debts due to the deceased and delivery of any property belonging to him is not limited to debts or properly enumerated in the will or in the Letters of Administration, but extends to all the debts due to the deceased and all the properties belonging to him. As you do not dispute that the deposit in the Mysore Government Savings Bank belongs to the deceased, I am entitled to payment of the same, and the Section cited affords you full indemnity. I cannot therefore see any valid objection could be raised to your paying me the amount due to the estate.

In reply to your second part of your letter that by reason of nonmention in the will of the amount of the deposit the Treasury has no right to pay as prescribed in Clause 8 of the Savings Bank Act. No.V of 1873 and Comptroller's Circular No.S.A.393 of the 28th October 1901, I wish to point out that neither the said Section nor the said Circular of the Comptroller has any reference to wills at all, nor does either of them lay down that only such assets as are mentioned in wills shall be payable. The said Section refers to deposits not exceeding Rs.1000/- and cannot therefore apply to this case where the deposit is over Rs.64,500

With reference to the Circular of the Comptroller above referred to, that has reference only to certificates granted by Civil Courts wherein the amount of the deposit in a Savings Bank is inserted, and lays down the rule that the Treasury officer will be required only to pay such amounts and no more, and if there is a balance of a fresh certificate will have to be obtained from the Civil Court. It cannot apply to my case where Letters of Administration are issued in which the particulars of the amounts due to the deceased are not entered at all. I ought to mention for your information that in my applications for Letters of Administration I am only required to state the amount of the value of assets likely to come into my hands. See Section 16 of Act II of 1874, the Administrator General's Act. I am not required by law to state the particulars of the assets nor does the Court insert in the Letters of Administration such particulars.

I trust, after this explanation, you will pay me the amount of the deposit without further delay. In case you find it necessary to carry on further correspondence about this matter; please register in your books the Letters of Administration sent to you with my letter No.P 1567 of the 29th Ultimo, as they are urgently needed for the collection of other assets.

I have the honor to be,

Sir,

Your most obedient servant,

(Sigd) N. Subrahmanyam,

Administrator General of Madras.

"True copy"

Asst Secretary

9 (2)a

1902

From E. R. Rubray Esq
Enclosure to Comptroller of Mysore
Serial 1
To
S. Ramaswamiiyer Esq
Government Advocate

Dated 22nd
Despatched September/02
Received
General No. 1619
Rec No.

Enclosure No. 4.

---

(1) No: 204/c of 15-9-02 from the Treasury office, Bangalore to the Comptroller.

(2) P. 1679 of 11-9-02 from the Administrator General of Madras to the Treasury office, Bangalore.

(3) No: 1567 of 29-8-02 from the Administrator General to the Treasury office, Bangalore

(4) Draft of the reply no: 180 of 2-9-02 from the Treasury office, Bangalore to the Administrator General.

Has the honor to forward in original the marginally noted correspondence received with docket no: 210/c dated 17 instant from the Deputy Commissioner, Treasury department, Bangalore for favor of his opinion in the matter. The only point in doubt is whether the powers vested in the Administrator General can take effect in Mysore Laganda moore appears to have established

established before the Chairman. I do
assert his claim to be considered
as a British Subject.

(Sd) E. R. Seabrooke
Comptroller.

"True Copy"
L. Christopherson Hansen
Accountant Probationer
Comptroller's Office

h - 5-8
En no. 4.

Office of the General Government Advocate in Mysore.
24th September 1902.

Enclosure to letter (30) /.

From

The Government Advocate
in Mysore.

To

The Comptroller in Mysore.

Sir,

In reply to your letter no. 1619 dated the 22nd instant, I have the honor to state that under Section 1 of the Administrator General's Act 2 of 1874 the Act extends so far as regards the British Subjects of Her majesty, to the dominions of Princes States in alliance with her majesty.

If the late Loganath Mudliar were not a natural born subject of Her majesty, ie, if he had not been born within the said territories and if he had not obtained a Certificate of naturalization under Act 13 of

1852

1852. he cannot be considered as a British-born subject. If he had been born within the territories of Mysore and if he had not obtained a certificate of naturalization under the Act, he should be considered as Mysore subject and the Administrator general's Act will not apply.

The enclosures are herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,
(Sd) S. Ramaswamy Iyer.
Govt Advocate.

"True Copy"
C. Krishnaswamy Rao
Asst Probate
Comptroller's Office

1892 (4 3/7

FROM The Comptroller of Mysore

To Enclosure to the Secretary to Govt. Madras

Dated 27

Despatched 27 Septr 92

Received

General No. 1729

Rec No.

Enclosure No. one

Sir

With reference to your letter no P 1679 dated 11th instant to the Treasury Officer of the Bangalore District requesting him to pay to you the amount of the deposit in that Treasury belonging to the

No. P-1872. 1.3(59)

Administrator General's Office,

Madras, 3rd October 1902.

Estate of V. Loganatha Mudelliar. Enclosure to Genl 1

From

N. Subrahmanyam,

Administrator General of Madras.

To

The Comptroller of Mysore,

B a n g a l o r e.

Sir,

I have the honor to acknowledge receipt of your letter No. 1729 dated 27th Ultimo with a copy of a letter to you from the Government Advocate, Mysore, enclosed.

I enclose a copy of an affidavit sworn to by the late Mr. T. Biligiri Aiyengar, Attorney-at-law, High Court Madras, which shows that the deceased was a native of Vellore i-e, was born in Vellore, a town in the North Arcot District in the Madras Presidency, within British India. The original affidavit is on the file of the High Court of Madras, in connection with a petition for obtaining an order from the said Court directing me to apply for Letters of Administration to the estate of the above deceased. The Madras High Court acting upon the said affidavit has recognised the deceased to have been a British subject in the description of the deceased in the Letters of Administration as I pointed out to you in person. If you want an authorised copy of the affidavit of Mr.S.Biligiri Aiyengar, I shall apply for the same and send it to you in due course. I hope that the proofs herewith sent will satisfy you that the deceased was a British subject of His Majesty and I request that you will be good enough to order that the amount of Rs.64,500/- in deposit in the Savings Bank at Bangalore may be paid to me.

I have the honor to be,
Sir,
Your most obedient servant,
(Sigd) N. Subrahmanyam.
Administrator General of Madras.

"True copy"

16 (10)

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

In the Matter of the Estate and effects
of Vellore Loganatha Mudelliar deceased.

I.S.Biligiri Iyengar Attorney-at-law of the High Court of Judicature at Madras residing at the Castle Kernan South Beach Madras do solemnly affirm and say as follows:-

1. The abovenamed Vellore Loganatha Mudelliar was a native of Vellore in the Presidency of Madras contractor in the Kolar Gold Fields in the Province of Mysore. He died at Madras on or about the 3rd day of December 1900 having made his Last Will and Testament dated the 2nd of May 1898.

2. That the said Vellore Loganatha Mudelliar has left him surviving his mother Muni Ammal his widow Bhagiam Ammal and three sons and three daughter namely V.Balakrishna Mudelliar, V.Dhanarama Mudelliar and V.Venugopala Mudelliar and Manika Ammal, Gajambal and Rookmani Ammal respectively of the ages of 17,15,7 & 13,9, & 3 years or thereabouts and has left estate and effects consisting of immovable & moveable property of the approximate value of Rs.350,000 according to his own will some situate within the Presidency of Madras and some within the Province of Mysore.

3. The said Testator V.Loganatha Mudelliar states in his said Will that during the minorty of his sons the Government should keep the estate and on their attaining majority the same should be divided among them equally after paying out all the legacies in terms of his said will.

4. The said Testator further appoints V.Vydialinga Mudelliar of Mysore, Mundy Cundasawmy Mudelliar & Coffee shop Coomarasawmy Mudelliar of Bangalore Cantonment, P.Patcheappa Mudelliar of Belgam and Oodayar Arumuga Mudelliar of Vellore as guardians of the said infant sons.

5. The said V.Vydialinga Mudelliar and 4 others last hereinbefore named applied to this Honourable Court on three separate Petitions as Executors by implication for Probate of the said Will and the Deputy Registrar of this Honourable Court Mr.J.H. Bakewell has recommended the dismissal of the petitions on the

the ground that the applicants are only appointed guardians of minors and that they have no other duties under the will and are not therefore executors even by implication.

6. The whole estate situated within the Jurisdiction of this Honourable Court is of the approximate value of Rs.70650 and out of the same 61900-13-5 are moneys made up of:-

Rs. 10235- 2- 0 In the Madras Bank, Current account
" 6841-13- 9 In the National Bank of India Ltd Fixed Deposit account.
" 21623- 0- 0 In Messrs Arbuthnot & Co., fixed Deposit account
" 4766- 7- 5 and
" 18434- 6- 3 two cheques of the Oorugam Gold Mining Company

of India Ltd dated respectively the 7th December 1900 and 18th January 1901 drawn in favor of the Executors to the estate of the deceased on the Banks in Madras.

7. The said sum of Rs.10235- 2- 0 carries no interest from 3rd December 1900.

The said sum of Rs. 6841-13- 9 carries no interest from the 31st May 1901.

The said sum of Rs.21623- 0- 0 carries no interest from the 26th February 1901.

The said sum of Rs. 4766- 6- 5 carries no interest from the 7th December 1900.

The said sum of Rs.18434- 6- 3 carries no interest from the 18th January 1901.

The amount of interest lost to the estate up to 24th Septr: 1901 is Rs.1580 or thereabouts and a similar loss will continue to accrue as long as no Administrator is appointed to realise and invest the said sums profitably.

8. If the application of the above named five guardians under the will for Probate to be granted to them as executors by implication is to be refused by this Honourable Court, I fear it will be long before the widow of the Testator as the next friend of his minor sons will be able to secure surities and apply for Letters of Administration with will annexed and in the meantime the moneys will remain without carrying any interest.

9. I beg to submit that it will be advantageous to the estate of the abovenamed Testator if this Honourable Court will be pleased to direct the Administrator General under Section 17 of the Administrator General's Act to apply for Letters of Administration to the effects of the Testator and in the meantime to authorise and enjoin the said Administrator General under Section 18 of the Administrator General's Act, to collect and take possession of such property and to invest the same according to the provisions of the said act or according to the orders and directions of this Honourable Court.

10. By no one having obtained Letters of Administration with the will annexed to the estate of the deceased although he died 10 months ago the estate has suffered loss and will continue to do so if the properties are not realised and invested.

11. The cheques have already become stale and unless early steps are taken to realise or ~~or~~ get fresh cheques in lieu thereof the claim for the amounts of these charges may become barred.

12. I am informed and believe the same to be true that claims on behalf of the said estate to the extent of Rs.8000 on Promissory Notes may become barred if early steps are not taken to realise them.

13. I believe that if the Administrator General does not take out Administration to the estate very soon the estate is likely to suffer waste and deterioration.

Solemnly affirmed to by the
abovenamed S.Biligiri Iyengar
at Madras this day of
September 1901.

Before me

Commissioner.

No. P.1864. 20 92

Administrator General's Office

Madras, 3rd October 1902.

Estate of Miss Sarah Anne Amelia Patton.

Enclosure to Serial.

From

N. Subrahmanyam,

Administrator General of Madras.

To

The Treasury Officer,

Chitaldrug District,

Chitaldrug, Mysore Province.

Sir,

I have the honor to forward herewith Letters of Administration to the above estate granted to me by the High Court of Madras for registration in your books and return.

I also forward herewith the Mysore Government Savings Bank Pass Book No. 541 dated 2nd May 1901 belonging to the deceased.

Please be good enough to pay me the sum of Rs.1,793-1-8 at credit of the depositor with interest due thereon.

I have the honor to be,

Sir,

Your most obedient servant,

Sd. N. Subrahmanyam,

Administrator General of Madras.

"True copy"

L. Krishnamurthi Naidu
Account Robustness

RM

Gen. 30]

189

From

E. R. SUBRAYER, Esq.,

Comptroller, Mysore Gov

SECTION AR.

FILE No. 258 of 0203

SERIAL No. 3

To

The Secretary to the Govt. of Mysore,

Rev. Dept *Dep*

Dated

Despatched 7-2-03

Received

General No. 4142

No.

Enclosure No. 1

In reply to

SUBJECT.

Forwarding copy of no P 115 of 30-1-03 from the Administrator Genl Madras re the estates of the late Loganadamudi & Miss Patton, and requesting that early orders may be passed on the subject

---

References (to be entered only in the Dewan's Office).

No. 4242/1

SECTION
FILE NO.

OFFICE OF THE COMPTROLLER OF MYSORE.

Bangalore, **2nd February 1903.** 189

SERIAL NO. 7

From

E. R. SUBRAYER, Esq., B.A.B.C.E.

Comptroller, Mysore Government.

To H.V.Nanjundayya, Esq., M.A.M.L.

~~*The*~~ *Secretary to the Govt. of Mysore,*

General and Revenue *Dept.*

SECTION
FILE No. 2815
SERIAL No.

SIR,

In continuation of this office No.1933 dated 18th October 1902 regarding the estates of the late Loganatha Moodr: and the late Miss Patton, I have the honor to forward herewith copy of letter No.P115 dated 30th January 1903 received from the Administrator General on the same subject, and to request that you will be ~~s/o~~ good enough to obtain early orders of Government.

I have the honor to be,

Sir,

Your most obedient servant,

E R Subrayer

Comptroller.

uuu

Rel'd on 11/2/02

No. P. 115.

Administrator-General's Office
Madras, 30th January 1903

Estate of V Loganatha Mudelliar

from

N. Subrahmanyam.
Administrator-General of Madras

To

The Comptroller of Mysore,
Bangalore.

Sir,

I have the honor to invite your attention to my letter No. P. 2263 dated 5th Ultimo and to yours of the 11th Idem, No. 3241 and to request you to be good enough to inform me whether the Government of Mysore have now sanctioned the payment to me of the amount at credit of the deceased's account in the Bangalore Treasury. If not, please write again requesting the early disposal of the question as the closing of the estate is delayed on this account.

I have the honor to be,
Sir,
Your Obedient Servant
(Sd.) N. Subrahmanyam
Administrator General of Madras

" Copy

T. Hirst Hutchinson
Account Probationer

26

4

SECTION Mis. Ka. J 1798 Encs 10

FILE No. 258 of 1902 38/5703

SERIAL No. 4

To The First Assistant to the Resident
in Mysore.

Sir,

I am directed to state that the Comptroller, Mysore Government, has reported for orders the fact that the Treasury Officers of Bangalore and Chitaldrug have been called upon by the Administrator-General of Madras to pay to him, on the strength of letters of administration granted by the Madras High Court to the estates of the late Vellore Lokanatha Mudaliar and the late Miss Sarah Anne Amelia Patton (a Eurasian), the marginally specified sums (with the interest due thereon) standing to the credit of the said decedents, respectively, in the Mysore Govt Savings Banks at Bangalore and Chitaldrug.

V.Lokanatha Mudaliar ...
... Rs.64,500..
Miss S.Patton ....
... Rs. 1793-1-8.

2. For reasons stated below the claim of the Administrator-General appears to be inadmissible.

It is true that the Administrator-General's Act, II of 1874, extends, so far as regards British subjects of His Majesty, to the dominions of Princes and States in India in alliance with His Majesty (section 1); and that a letter of administration granted to that Officer by the High Court has effect (under section 23A) throughout the Presidency of Madras, inclusive of Mysore. But

being merely an enactment of the legislature of British India, and not having been extended to this State by an Authority competent in that behalf, the said Act II of 1874 is not a part of the territorial law of Mysore; and while letters of administration granted under it may be binding on British subjects residing in Mysore, by virtue of the declaration in section 1, the case is essentially different as regards persons who are not British subjects. As against the latter, some authority recognised by the law of Mysore as necessary and sufficient must be produced before payments can, on the one hand, be lawfully enforced, and, on the other, operate as a valid discharge to the payees. Such an authority can be conferred only by a probate or letters of administration under the Succession Act, 1865 (as in force in Mysore), or by a certificate under the Succession Certificate Regulation, VII of 1901. [Compare, also, section 4 of the Government Savings Banks Act, 1873,--as in force in Mysore,- which, as though it refers in terms only to deposits not exceeding one thousand rupees, evidently implies that as regards larger sums the "Secretary" of a Bank is not authorised to pay deposit moneys in the absence of a probate or letter of administration or succession certificate.]

as?

< evidently + evidently

3. If the Hon'ble the Resident concurs in the view above expressed, I am to request that the Administrator-General may kindly be asked to produce, as his authority for demanding payment of the savings bank depo-

sit in each of the two cases under advertance, a certificate under the Succession Certificate Regulation granted by a Court having local jurisdiction.

4. I am to observe, in passing, that, as the amount of the estate of Lokanatha Mudaliar is comparatively vary large, the loss of stamp revenue to the Darbar would be considerable if the Administrator General were permitted to recover the same on the strength merely of a letter of administration issued by the Madras High Court.

5. Copies of correspondence between the Administrator General and the Account Officers of the Mysore Government are enclosed for reference if necessary.

I have &c.,

15-11-02

Secretary.

GOVT. OF MYSORE
MAY - 7 1903
RECEIVED

7L 1533. 190

29

SECTION R. From V. Subrahmanyam
FILE No. 258 of 02-03 Administrator General
SERIAL No. 5 To of Madras.

THE SECY. TO THE GOVT. OF MYSORE,
GEN. & REV. DEPTS.

Dated 5/5/03

Despatched

Received

General No. P. 729
No.

Enclosure No.

Tobe dilly orders may be passed re the recovery of the sum of Rs 645-00 and up in the name of the deceased V. Loganad Mudr

References to be marked.

Transferred to the Judl Deptt as the previous refs are being dealt with in that Deptt

11/5

11/5/03

Relegation
11/5

Letters addressed to this office should be headed in the name of the Estate to which they refer.

In all cases separate letters should be written in each estate when addressing the Administrator-General on matters connected with two or more estates.

No. P 729

30

ADMINISTRATOR-GENERAL'S OFFICE,

MADRAS, 5th May 1903

5

ESTATE of V. Loganatha Mudelliar

FROM

N. SUBRAHMANYAM,
Administrator-General of Madras.

To

The Secretary to the Government of Mysore,
General and Revenue Departments,
MYSORE.

Sir,

I have the honor to state that by my letter No. P 1567 of 29th August 1902, I applied to the Treasury Officer - Bangalore for payment to me as administrator to the estate - of the above deceased of the sum of Rupees 64,500/- standing in his hands to the credit of the above deceased. After some correspondence between me and that Officer as well as also - the Comptroller of Mysore regarding my right to recover the - assets of the deceased in the Province of Mysore on the - strength of the Letters of Administration granted to me by - the High Court of Madras, the matter was submitted by the - Comptroller of Mysore for the Orders of the Government of - Mysore by his letter to you dated 18th October 1902. The - said letter of the Comptroller of Mysore also submitted for the orders of Government of Mysore the question of my right - as administrator of the estate of Miss Sara Patton under - Letters of Administration granted by the High Court of Madras to recover the sum of Rupees 3018/- due from the Treasury - Officer Chittaldroog to the said estate.

Subsequent thereto I wrote several letters to the Comptroller of Mysore to ascertain how the matter was - decided by the Government of Mysore to all of which the - Comptroller of Mysore has replied to the effect that the - matter was still pending the decision of the Government of Mysore and that a reminder was sent to you with a view to -

Reply -
The Comm^r
The matter has raised an important question which has not yet been decided & which is under Cons^n & Correspondence. The final reply will be Communicated as soon as the matter is definitely settled.
7/5/3

Draft sub^d
12/5/3

the orders of mysore Government being obtained.

Under the above circumstances, I have thought it my duty to address you direct on the subject and to bring to your notice - that the closing of my accounts of the above estate as well as of the estate of Miss Sara Patton is being unduly delayed by reason - of the Mysore Government not having yet given its decision. I - therefore pray that you will submit to the Government of Mysore - the necessity for giving its decision at an early date and that - after obtaining its orders you will communicate the same to me.

I have the honor to be,

Sir,

Your Obedient Servant,

Administrator General of Madras.

SECTION L.R.

FILE No. 268 of 02-03

SER'AL No. 6 Lo

32

(6)

N. Subrahmanyam Esq
Administrator Genl
& Madras.

Dated 26th May 1903
No 1801
J.7.24 of 02-03

Sir,

In reply to your letter No D. 729 of the 5th Instant, requesting early decision of the question of payment to you of the Savings Bank deposits belonging to the late Kellare Loganadh Mudr and the late Miss Sarah Patton, I am directed to state that the matter has raised an important question which has not yet been decided and which is under correspondence

The

Surely this might have been disposed of without waiting so many days with other files. The office had only to copy my remark. The way in which things are made to drag on in this office is sometimes outrageous. If my initials were needed, the clerk might have got them in 5 minutes.

Recd 19.5.03. Office will note this for guidance. [Unable to see why this should have passed the Accountant General's eye if it had been there on leave but I was there on leave myself. 19.5.03]

Seen

The final reply will be communicated as soon as the matter is definitely settled.

I have the

17/5/03

Secretary,

18/5/03

Secretary

OFFICE OF THE RESIDENT
Regd 1333934
1902-3 12 JUN 1903
DEWAN'S OFFICE

8

J 2587

SECTION 4th From

FILE No. 28 Bof 1902-3

SERIAL No. 7 To

THE FIRST ASSISTANT TO THE
HON'BLE THE RESIDENT
IN MYSORE.

Pol. 1869

THE DEWAN OF MYSORE.

Dated 8. 6. 03

Despatched

Received 12.6.03 4.15 P.M.

General No. 2607

No.

Enclosure No.

States that in the Hon'ble the Resident's opinion the Administrator Genl. is entitled under his Letters of administration to recover any property which may belong to the late Vellore Leaganatha Mooder and Miss Sarah Anne Amelia Pallan in Mysore without any further authorization by the State authorities.

References to be marked.

MGCPB—1,000—5-6-03

Rec'd 12.6.03.
Put up papers &c
(I shall continue the correspondence)
12.6.03

J 2587.

No. 2607

Rec'd 9/6/03

35

10712
9.6.03.

FROM

R. C. H. MOSS. KING, ESQ., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Please write
dear sir
Received
10. VI. 03

To

The Dewan of Mysore.

Dated Bangalore, 8th June 1903.

SIR,

I am directed to acknowledge the receipt of Mr. Nanjundayya's letter No.J1798 dated 8th May 1903, regarding certain sums claimed by the Administrator General, Madras, in virtue of letters of administration granted to him by the Madras High Court in respect of the estates of the late Vellore Loganatha Mudaliar and Miss Sarah Anne Amelia Patton (Eurasian).

No. 4

2. The Resident understands that the Durbar are prepared to admit that the Administrator General can make such claims on behalf of British subjects residing in Mysore and are only arguing that the case is essentially different in respect of persons who are not British subjects. If this view is correct the exact ground on which the Durbar object to making the payments claimed is not quite clear for the

only

only question seems to be whether Loganatha Mudaliar and Miss Patton were British Subjects or Mysoreans. As regards the former there is apparently evidence to show that he was born in Vellore and was a British subject. The nationality of the latter has not yet been questioned but presumably there will be no difficulty in deciding it.

3. Assuming as seems probable that both these persons were British subjects the Administrator General is in the Resident's opinion entitled under his letters of administration to recover any property which may belong to them in Mysore without any further authorization by the State authorities. But if the meaning of Mr. Nanjundayya's letter has been misunderstood I am to request that the precise reason for which a reference to the Administrator General is desired may be explained.

I have the honour to be,

Sir,

Your most obedient servant,

First Assistant Resident.

RK

Clean draft

1937

Mysore Government General and Revenu

Secretariat,

SECTION. GR

FILE No. 25 Dofs 03

No. 8

~~OFFICE OF THE DEWAN OF MYSORE,~~

DATED BANGALORE, 14th August 1903.

~~189~~.

No 391

2.7.94 Bor-03

From H.V. Nanjundayya Esquire, M.A. M.L.

~~THE~~ *SECRETARY TO THE GOVERNMENT OF MYSORE,*
GENERAL AND REVENUE DEPARTMENTS.

Letter sent thereon & answered 17/9/03

R.C.H. Moss King Esquire, I.C.S.

First Assistant to the Resident in Mysore.

By some oversight this was not filed earlier

SIR,

In reply to your letter No.2607 dated 8th June/03, on the claim put forward by the Administrator General of Madras to certain Savings Bank deposits, I am directed to state that the position taken up by the Darbar has not been correctly understood, and to explain the matter more fully as follows:-

2. The contention is not based on the distinction of the estate belonging to British subjects or natives of Mysore. It depends on the fact that the property to be disposed of is within the jurisdiction of this State, and in the hands of persons who are not British subjects.

The Administrator General's Act of 1874 professes to extend to the whole of British India, and "so far as regards British subjects of Her Majesty, to the Dominions of Princes and states in India in alliance with Her Majesty". The accepted principles of interpretation require that the passage should be so construed as to make out that the legislative authority did not mean to go beyond its proper limits.

The Administrator General is a legal person created by

this

this Act. He would be able to act in those cases only in which express power has been given to him. Where British subjects leave property in the jurisdiction of Native States in circumstances similar to those in which the Administrator General would have to intervene to protect property within the British jurisdiction, for the benefit of the heirs, express authority would be required for him to take up the administration in such Native States. It may be fairly concluded that it is for this purpose only that the State of Mysore is included within the Presidency of Madras.

3. In fact, a wider construction would be attended with inseparable difficulty. In disputed matters, the Administrator General would have to go to a Court within whose jurisdiction the property is held or the person holding it is resident. In such cases moreover, a party can only obtain protection against other claims by acting under an authority of a competent court, and such a Court cannot recognise the Administrator General's status as legal except as allowed by a rule of law binding on it. There is no Regulation of the Local Government on the subject. Acting on the accepted rules of law, the courts in Mysore may, however, recognise the status of the Adminstrator General, as a proper representative for a decedant leaving property within their jurisdiction. But it seems to be quite necessary that the recognition should be through the Courts of the State, and that Section 23 A of the Act cannot render an authorisation by the Madras High Court sufficient.

4. If the contrary view is adopted, conflicts may occur between the local jurisdiction and that of the High Court. Suppose a certificate has been issued by a local Court for collection of debts to a different person, who will have the preferable right? Or as contemplated by section 19 of the Administrator General's Act itself, suppose an executor appointed by will takes out a probate in a Court in Mysore, will the High Court revoke the letters granted to the Administrator General under section 26 of the Act?

The

5. The question, I am further to state, is not a merely technical one. In addition to the interests of Stamp revenue involved in dispensing with a succession certificate, it is believed that payment to the Administrator General will not give a valid discharge for a debt, as he is not a natural heir of the decedent, but is only an artificial person, the creature of law which has no local application. Even a natural heir, ~~it may be added, however~~ would have to invoke the aid of a local Court in disputed cases.

~~The Darbar~~ I am also ~~wish~~ to add that what the British Act does is to enact a rule of law binding on the Administrator General to take action in such cases.

I have the honour to be,

Sir,

Your most obedient servant

Secretary.

This typing is not satisfactory. Please let me have a better copy. 13/8/13

SECTION CR
FILE No. 2580/02-03
SER'AL No. 7 9

40

The Administrator
General of Mad

Dated 3.9.03

No. 559
2794/03

Sir, Reminder Despatch

In reply to
your letter No. P. 1037
dated 6th ~~August~~ July
1903 and subsequent
reminder No. P. 1224
of 4th August 1903, enquir
when the amounts due
to the estates of the
late V. Lapanatha
Mudr and Miss Sarah
Patton will be paid,
I am directed to
state that the matte
is still under cor
-respondence betwee
the Darkar and

the

Reminder Despatch
13-9-03

Rec'd.
10/9/03

the Hon'ble the British
Resident in Mysore ~~and the~~
final reply will be
Communicated to you
as soon as it is definitely
settled.

S Haveeda

2/9/13

2/9/13

Dr Jayadeva

29/8/13

from a competent Court of the State.

3. The Resident finds himself unable to concur in this opinion of the Durbar for the following reasons. As regards the object of the Administrator General's Act, 1874, Section I declares that it extends to the dominions of Princes and States in India in alliance with His Majesty, so far as regards British subjects. In introducing the Bill to apply Act XXIV of 1867 to certain Native States, which was finally passed as Act II of 1874, the Member of the Governor General's Council in charge of the Bill(the Hon'ble Mr. Stephen) said that the object of the proposed measure was " to extend the operation of the Act to the collection of the effects of British subjects dying in Native States". "The Act did not", he also stated, "extend to the collection of the effects of British subjects dying in Native States. But it was obvious in the present state of things, this ought not to be", (Vide supplement to the Gazette of India dated 16th December 1871, page 1640). The Select Committee, to which the Bill was referred for report, stated as follows:-

"We have empowered the Government of India to authorise the Administrators General to deal with the effects of British subjects dying in allied Native States" (Vide supplement to the Gazette of India dated 31st January 1874)

4. As regards the extent of the Act, so far as the matter under consideration is concerned, the Presidency of Madras includes

includes Mysore(Section 3(d)), and Section 14 directs that so far as regards the Administrator General of Madras, the High Court at the Presidency Town shall be declared to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of Administration may be situate." Section 23 A further declares that probate or letters of Administration granted by the said High Court to the Administrator General "shall have effect over all the property and estate, moveable and immoveable, of the deceased throughout such Presidency and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding property which belongs to him and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to such Administrator General"

The provisions of the Act are in operation in Mysore so far as British subjects are concerned, by virtue of the power vested in the Governor-General in Council to make laws for all British subjects in Native States and are, to that extent, in force therein proprio vigore. The fact that the property to be disposed of, being the property of a British subject, is within the jurisdiction of Mysore and in the hands of persons who are not British subjects, cannot exempt it from the operation of the Act: nor in

the

the opinion of the Resident does the absence of any local law recognising the status of the Administrator General render letters of Administration granted by the Madras High Court in respect of the property of British subjects in Mysore inoperative.

5. As a matter of fact, however, there does appear to be a Regulation of the Mysore Government recognising the status of the Administrator General as legal, viz., the Mysore Succession Certificate Regulation VII of 1901. Section 4 clause (ii) of the Regulation makes certificates granted under section 36 or 37 of the Administrator General's Act, 1874, binding on the Courts of Mysore. This clause was omitted in the draft Regulation, but as it was considered that such omission would make such certificates in-operative, as regards the property of British subjects dying in Native States, it was inserted by the Durbar at the instance of this office (vide correspondence ending with your office letter No. 8133/Legis 66, dated 17th December 1900).

6. Section 4, clause (i) of the said Regulation recognises the representative title of a person to whom probate or letters of Administration to the estate of the deceased persons have been granted. According to the ordinary rules of interpretation the probates or letters here referred to would be those granted by the Courts of Mysore. But having regard to the intention of the Legislature in passing Act II of 1874, as stated in paragraph 4, supra, and to the express provision in the Regulation as to the

validity

validity in the Mysore State of the certificates granted by the Administrator General under the above Act, the Resident thinks that it must necessarily be held that letters of administration granted to the Administrator General by the High Court are included within the scope of this section to hold otherwise would have the effect of making such letters useless.

7. The following point may also be urged in support of the view that letters of administration as mentioned in section 4(I)(i) of the Mysore Succession Certificate Regulation, VII of 1901, include letters granted to the Administrator General by the High Court of Madras in respect of the estates of British subjects in Mysore. Section 19 of the Regulation is to the effect that a certificate of succession granted thereunder should be treated as invalid, if there has been a previous grant of a like certificate or of a probate or letters of administration in respect of the same estate. Now, certificates of succession cannot be granted in respect of the estates of Europeans and other persons governed by the Indian succession Act of 1865 (Vide section 1(4) of the Regulation referred to above). Native British subjects would thus ordinarily be the only class of British subjects in respect of whose estates certificates of succession can be granted under the Regulation. As regards this class of British subjects, the Mysore Courts have no jurisdiction to grant probates or letters of administration, as no enactment

corresponding

corresponding to the Indian Act V of 1881 (the Probate and Administration Act) is in force in Mysore. When Section 19 of the Regulation is therefore applied to such British subjects in Mysore, the words "if there has been a previous grant of probate or letters of administration in respect of the deceased person" in section 19 of the Regulation are apparently, if the Durbar's present contention is correct, superflous and meaningless. In construing Statutes, the Legislature must be presumed to have used its words advisedly and deliberately, and an Act or Regulation should be so construed as not to make any words superflous. If the above words are to be given full effect, it would appear that the letters of administration contemplated in the section and the grant of which would invalidate the succession certificates granted under the Regulation, can only mean letters of administration granted to the Administrator General under Act II of 1874, an Act also specifically mentioned in section 4(I) (ii) of the Regulation as an Act that is in force in Mysore.

8. I am here to observe that the jurisdiction exercised by the Governor General in Council over British subjects in Mysore under the Administrator General's Act, II of 1874 (Vide para 4 supra), appears to be concurrent. For, as regards European British subjects and other persons governed by the Indian Succession Act, 1865, Mysore Courts have jurisdiction to grant

grant probates and letters of administration under the said Act of 1865, as applied to Mysore by the Notification of the Government of India, Foreign Department, No. 203, judicial, dated the 23rd July 1868, while as regards Hindus, Mohamedans, &c not governed by that Act, the said Courts have jurisdiction to grant certificates of succession under the Mysore Succession certificate Regulation, VII of 1901.

9. The object of the India Legislature in passing Act II of 1874 was, inter alia, to create an artificial legal representative to take charge of and to protect the estates of deceased British subjects, when the persons legally entitled to represent such estates do not come forward to administer them. Hence when proper persons do come forward to administer the estates, the Administrator General does not interfere. In fact he waits for about a month after the death of a person, and then, if he finds that no one has applied in the local Courts having jurisdiction for probate or letters of administration to the estate of such person, he moves the Madras High Court to grant him letters of administration (vide section 16 of Act II of 1874). These letters when granted, have, the Resident considers, operation throughout Mysore and constitute him the legal representative of the deceased person for purposes of realising the assets of that person and administering them according to law. In other words the Mysore Courts have the primary jurisdiction to appoint a proper

proper person to be the legal representative of the deceased for purposes of protecting his estate; but if that jurisdiction is not exercised the High Court of Madras steps in, in the interests of the persons beneficially interested in the estate, and appoints the Administrator General to be the legal representative of the deceased. In this sense the jurisdiction exercised by the High Court of Madras may be said to be alternative jurisdiction, which comes into existence on failure of the Mysore Courts to exercise the jurisdiction vested in them. There would appear to be no danger of clashing between jurisdictions which should in this way mutually recognise and respect each other.

10. It may be remarked that cases of conflict, such as those contemplated in paragraph 4 of the letter under reply, are not likely to arise, if the Madras High Court on the one hand and the Mysore Courts on the other act on the principle that, so far as regards British subjects, both Courts are Courts of competent jurisdiction. Section 1(4) of the Mysore Succession Certificate Regulation VII of 1901, directs that a certificate shall not be granted thereunder with respect to any debt to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, and section 19 of the Regulation declares that a certificate granted thereunder in respect to the effects of a deceased person shall be invalid, if there has been a previous grant of probate or letters of

administration

administration in respect of the same estate.

11. The Administrator General of Madras would seem, at any rate to be entitled to take possession of personal property of a deceased British subject in Mysore, peaceably and without suit, and to collect a debt if voluntarily paid, and if there is no opposing administration in Mysore, its Courts would, in the Resident's opinion, be correct if they recognized his title as rightful and protected it as fully as if he had taken out letters of administration in Mysore. In the case of the estates of the two deceased persons in question there appears to be no such opposing administration.

* V. Lokanatha Mudaliar.
Miss S.Patton.

12. In these circumstances, the Resident regrets that he cannot see his way to make any representation on the subject to the Administrator General. Should, however, the Durbar still consider there to be any doubt on the subject, he is prepared to submit the question for the orders of the Government of India.

Why should the Madras Govt. collect fees under the Court fees Act for the value of property situated in Mysore, when the Admr. Genl. takes out admn.?

I have the honour to be,
Sir,
Your most obedient servant,

First Assistant Resident.

VS.

No.1306 dated 23/12/03
94/02-03

To
SECTION ~~R.C.H. Moss~~ King, Esquire, I.C.S.,
FILE No. 280/02-03 First Assistant Resident.
SERIAL No. 11

Received 13-1-04
P

~~Sir,~~

I am directed to acknowledge the receipt of your letter No.5204, dated the 27th October 1903, and to state that the question regarding the title of the Administrator General of Madras to deal directly with the estates of deceased British Subjects in Mysore does require further investigation on very good grounds.

J & N

2. Besides the reasons given in my letter No.J.1798, dated the 8th May 1903 and No. 391/J.F.94 of 02-03 dated the 14th August 1903, the Durbar desire to urge the following.

What is now contended in reference to the Madras Administrator General is not the lack of authority for him to take cognizance of the property of deceased British Subjects in the State of Mysore, which he derives under the British Act of 1874, but the authority of the Madras High Court to pronounce orders and grant letters of administration, affecting non-British Subjects and in conflict with the local Laws of Mysore.

To make the case clear I beg to state that it is not disputed that the Governor General of India has power to make laws

binding

binding on British Subjects in Native States. Under certain conditions Administrators General have to take cognizance of such matters and, to enable them to act, the local jurisdiction of every Administrator General is specified by classifying the different provinces of British India and Native States into certain groups. Mysore happens in this classification to be included in the Madras Presidency, though in passing, it must be pointed out that the treatment which Mysore has received in these arrangements is singular as it has been included ~~itself by a provision thereof~~ *itself by a provision there* in the Act while ~~as~~ the other Native States have been so dealt with by an executive Order of the Governor General in Council. Whether this difference is due to the fact, that at the time when the Administrator General's Act was passed in 1874, Mysore was administered by the Governor General, is not clear, but if it is so, the Durbar venture to think that no impediment now exists to Mysore being placed on a par with other Native States.

This aspect of the case leads the Durbar to think that Act II of 1874, even if it had any legal force in Mysore before the Rendition must be deemed to have ceased to be law in Mysore after that event took place in 1881, a view which receives support from the fact that the Act is excluded from the Schedule annexed to the Instrument of Transfer. That its exclusion

B

is

is not inadvertant follows from many a consideration. It is not a mere rule but a piece of legislation affecting the interests of British Subjects. The exclusion is unquestionably correct based as it is on certain well recognised and unassailable principles, viz. the correctness of restricting the application of extra territorial laws to Mysore, and of avoiding all interference with the Stamp Revenue to which the Durbar are legitimately entitled. Above all, when questions regarding entire or partial reservation of jurisdiction, as the plenary Criminal Jurisdiction over European British Subjects(clause 17) and of certain sources of revenue (clause 18) did engage the serious attention of the authors of the Instrument of Transfer, it is least likely that a matter of prime importance like the one in question, which, at once, affects jurisdiction and revenue, escaped their notice. It seems thus clear that the inclusion of Mysore in the definition of Madras Presidency in the Act of 1874 has no wider effect than if the Governor General in Council had by an executive order directed Mysore to be within the jurisdiction of the Madras Administrator General.

What the Durbar want to clearly

point

point out and lay stress on is the fact that, with the above distribution of the Advocate General's jurisdictions to approach the British Subjects residing in Native States and dying leaving property there, the authority of the Governor General ceased. It is respectfully submitted that the Governor General can neither extend the jurisdiction of any of the British Indian High Courts to a Native State nor curtail the jurisdiction of the Courts of such States. While therefore the Durbar take no exception to the object as expressed by the select committee in the extract quoted in your letter under reply they affirm that the controversy in question cannot be settled by this circumstance alone. The object of Act II of 1874 was undoubtedly to authorize Administrators General to deal with the effects of British Subjects dying in allied Native States; but for which Act the Administrator General could not come in at all, not only in the case of British Subjects dying in Native States but also in British India. This enactment however does not dispense with the observance by him of any legal formalities according to the requirements of the law in such States. If to obtain the right of administration in any case in British India he has to take letters of Administration from the Madras High Court it is contended that it is equally binding on him to

obtain

obtain in Mysore a certificate under the Succession Certificate Regulation.

While the Governor General in Council has the undoubted power of making laws for all British Subjects in Mysore, it is at the same time clear that no straining of principle could support the contention that the Madras High Court can take the place of local Courts. The distinction is so important for the present purpose that it will bear quotation of certain generally accepted authorities. From Ilbert's Government of India p.119 and Lee- Warner's Protected Princes of India pages 337-338, it is found that the Governor General in Council has authority to make Laws

(a) for all persons, for all Courts and for all places and things in British India

(b) for all British Subjects of Her Majesty and servants of the Government of India, within other parts of India, that is to say within the Native States.

Laws made under this limited authority have force proprio Vigore among the British Subjects inter se. The limitation intended to be preserved would vanish if the laws be construed to affect also non- British Subjects of the Native States, and property in their hands.

Such

Such limited authority of Legislation which is in entire consonance even with the principles of International Law, apply -ing to States placed /ø/ø/ in relations of greater mutual independence than the Native States of India, cannot be deemed adequate to confer on the High Court of Madras, which is a Foreign Court, as regards Mysore, jurisdiction over the subjects of the Native State or their things.

An argument in favour of the Letters of Administration granted by the Madras High Court so as to have exclusive validity in Mysore has been based upon the fact that the legal status of the Administrator General has been recognised by the Durbar in clause (ii) of section 4 of the Succession Certificate Act; and it is stated that he can act without reference to the Mysore Courts and as against Non-British Subjects. This contention goes far beyond the object which the Durbar had in having recognised the Administrator General's certificates under certain conditions. They never intended that he could thereby act independently of the local courts or that the High Court of Madras could legally exercise jurisdiction over Non-British Subjects. The recognition was merely intended to afford to the Administrator General the same facilities as he would have had in British India to enable the parties ~~intended~~ interested to recover small estates under the value of 1000 Rs. This did not

dispense

dispense with the prior formality needed to vest him with the power of action in individual cases and it was in this light that the suggestion of the Residency was accepted. To attach more significance to it than what the Durbar intended is to disregard a material link in the process of reasoning. The unsoundness of the argument will become patent if the same is applied to the Madras Presidency where it is believed that before the Administrator General could give a certificate under sections 36 and 37 of the act of 1874 he must himself obtain Letters of Administration from the Court. If it is so in Madras the conclusion fails that the prior formality may be dispensed with in Mysore.

Section 19 of the Mysore Succession Certificate Regulation has been relied upon for an argument in favour of the view taken by the Honourable the Resident. All that the Section says is that in two classes of cases no certificates should be granted. The first is where a certificate granted already is in force- and the Second is where letters of Administration already granted are likewise in force. It is assumed that the letters of Administration herein referred to are not such as are issued under the Indian Succession

Succession Act in force in Mysore, as they have been excluded from the operation of the Succession Certificate Regulation in clause 4 of section 1 and it is argued that they must therefore, refer to the Letters granted to the Administrator General under the act of 1874 by the Madras High Court. It seems to the Durbar that this argument is strained unduly and beyond its leginate limits. The assumption would indeed be plausible if it were correct to make another assumption that a party proceeding under the Indian Succession Act would have liberty at ho time to change his status and bring himself under the operation of the Mysore Succession Certificate Regulation. There seems to be no such impossibility and the words of section 19 become applicable to such a case. The plain words refer logically to the Letters referred to in clause 4 of section / and the conclusion relied upon in the letter under reply appears in the opinion of the Durbar, not to follow from the logical construction of the words used. There was nothing to prevent the insertion of the words referring to the Act of 1874 in section 19 as has been done in section 1, clause 4 of the Mysore Succession Regulation.

Further it can hardly be contended that by the insertion of clause (ii) of Section 4 of the Succession Certificate Act, the Durbar agreed to sacrifice Stamp Revenue which may often be considerable, as in

the

the present case. It may be observed that a probate or Letters of Administration granted in one jurisdiction is not admitted in another without payment of the proper duty.(Dicey's conflict of laws rule 121. page 466).

If these reasons fail to convince the Honourable the Resident that the contention of the Durbar is right, they request that the matter may be referred to the Government of India, as promised in your letter quoted above.

As, in the present case, the officers of the Durbar are the custodians of the money concerned, and as the Durbar do not wish to deprive the owners of these estates of the use of their money by withholding it till the settlement of the question raised, they have, as a special case, ordered that the money should be paid up. At the same time the Durbar wish to emphasize their hope that this action of theirs will not be construed as evidencing an admission on their part of the Administrator General's independent status which is at least seriously questionable. They also wish to impose upon the Administrator General the condition that, if the Government of India accept the view of the Durbar the stamp duty due to the

State

State should be paid by the Administrator General.

I have &c.

21/12/43

Secretary.

Dfd. 22/12/43

1377 7/4/04

Jud 4/2/03

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3

To

The Comptroller,

SECTION S.R. Mysore Government.

FILE No. 2880/02-03,

Sir,

SERIAL No. 12

I am directed to address you with reference to your letter No.Mis.1247/1988 dated the 18th October 1902, regarding a demand made by the Administrator-General of Madras for the payment of certain sums standing to the credit of the late V.Lokanatha Mudaliar and the late Miss S.A.A.Patton in the Mysore Government Savings Banks.

2. I am to say that the question is still under correspondence between the Mysore Government and the Hon'ble the Resident; but that, as Government do not wish to deprive the owners of these estates of the use of their money by withholding it till the settlement of the question raised, they direct, as a special case, that the amounts under advertance be paid to the Administrator-General, subject to the conditions, firstly, that this action of Government is not to be construed as evidencing an admission on their part of the Administrator-General's status, and secondly, that, if the view of the Government(denying that Officer's title to deal with the estates of deceased British subjects in the hands of

Typed. 5/04

on-British subjects in Mysore) should inally be accepted by the British overnment the stamp duty due to the tate should be paid by the Administrator-General.

3. The Comptroller is accordingly equested to place himself in communication with the Administrator-eneral, and, on that Officer accepting the conditions referred to in para of this letter, to proceed duly to disurse the savings banks deposits. ~~in accordance with rules~~.

I have, etc.

22-12-53

Secretary. 3/1/54

31-XII-53

1378 9 7/11 04 63
Jud. 1.

To The Administrator General,
Madras

SECTION S.R.
FILE NO. 2886-02-03.
SERIAL NO. 13

Recd 13-1-04

Sir

~~With reference to correspondence~~
In continuation of my letter No. 559 J.7-9-03 of the 3rd Sept: 1903, regarding your claim to payment of certain savings bank deposits due to the estate of the late V. Lakshmanathan Mudaliar and the late Mrs. S. A. N. Pillai I am directed to forward for your information a copy of a letter addressed this day to the Comptroller

Letters addressed to this office should be headed in the name of the Estate to which they refer.

In all cases separate letters should be written in each estate when addressing the Administrator-General on matters connected with two or more estates.

No. P 72

Administrator-General's Office.

Madras, 12th Janry 1904.

Enclosure. SUNDRY *ESTATE of*

J 1068

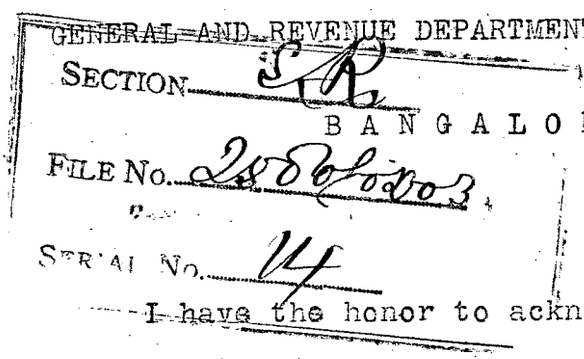
Des 13/-

FROM N. SUBRAHMANYAM,
ADMINISTRATOR-GENERAL OF MADRAS.

To

THE SECRETARY TO THE GOVERNMENT OF MYSORE,

5



Sir,

I have the honor to acknowledge receipt of your letter No: 1378 J 94 of 02-03 dated 7th Instant with copy of a letter to the Comptroller enclosed for which I thank you.

I am writing to the Comptroller of the Mysore Government accepting the conditions set forth in para 2 of your letter to him No. 1377 J 94 of 02-03 dated the 7th Instant.

I have the honor to be,

Sir

Your Obedient Servant,

N. Subrahmanyam

Administrator General of Mad